

REMARKS

Claims 1-55 are pending in the above identified application. Claims 1-13, 17, 25, 27-36 and 46-55 stand rejected. Claims 38-45 are allowed. Claims 14-16, 18-24, 26 and 37 are objected to by the Examiner.

Drawings

Applicant acknowledges that formal drawings will be required when the present application is allowed.

Response to Amendment

The Examiner acknowledges that, in response to the amendment filed on 11/12/02, Claim 52 has been amended.

Allowable Subject Matter

The Examiner has indicated that claims 38-45 are allowable. Further, claims 14-16, 18-24, 26, and 37 are objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As set forth below, Applicant submits that the base claims from which these claims respectively depend are allowable in this application. Accordingly, Applicant requests withdrawal of the objection to these claims.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4, 10-13, 17, 25, 27-31, and 46-54 were rejected as being unpatentable over U.S. Patent No. 5,749,086 to Ryan and U.S. Patent No. 6,381,684 to Hronik, et al. ("Hronik"). However,

the patent to Hronik is disqualified as prior art for the present application under 35 U.S.C. § 103(c), which states that

[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Applicant submits that the Hronik patent and the present application were, at the time of the invention, both owned by the same company, Integrated Device Technology, Inc. Further, the present application is a Continuation Prosecution Application under 37 C.F.R. §1.53(d) and therefore has a filing date of April 22, 2003. Accordingly, pursuant to the provisions of 35 USC § 103 (c), which applies to applications filed after November 29, 1999, the Hronik patent is disqualified as a reference under §§102 (e), (f), and (g) for purposes of rejections under § 103. Withdrawal of this rejection is respectfully requested.

Claims 5-9, 32-36, and 55 were rejected as unpatentable over Ryan, Hronik, and U.S. Patent No. 5,987,570. Applicant submits that these claims are allowable at least by their dependency on allowable claims. Withdrawal of this rejection is also requested.

Applicant also traverses this rejection on the basis that Hronik is disqualified as a reference under §§102 (e), (f), and (g) for purposes of rejections under § 103 as set forth above.

Response to Arguments

The Examiner, in response to the Amendment filed on November 12, 2002, states that

[t]he applicant alleges that Hronik patent should be disqualified under the provisions of 35 USC § 103(c). Because the present application was filed before 11/29/02, the provisions of 35 USC § 103(c) do not apply and the rejection is maintained.

However, the current application is a CPA application filed in accordance with 37 C.F.R. §1.53(d). In accordance with that section, the filing date of the present application "is the date on which a request on a separate paper for an application under this paragraph is filed." 37 C.F.R. §1.53(d)(2). As a consequence, the provisions of 35 U.S.C. § 103(c) become effective as to this application and, as was discussed above, Hronik is disqualified as prior art to this application.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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